THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.9490 OF 2007

DATED 01.05.2007

BETWEEN

Dr Pithani Annavaram

… Petitioner

AND

The S.Atchuthapuram Gram Panchayat, S.Atchuthapuram, Kakinada Rural Mandal, East Godavari District, rep.by its Secretary and another.

… Respondents

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.9490 OF 2007

ORDER:

The petitioner herein is allegedly owner of land admeasuring Acs.344 ½ square yards (about 290.50 square meters) comprised in

survey Nos.154 of S.Atchuthapuram village. He obtained permission for construction of a residential house with ground plus two floors. First respondent granted permission vide B.L.R. No.07/2006-2007, D.D.S.No.Nil, dated 27.05.2006. The petitioner completed construction, but for minor things, he also made another application to first respondent seeking permission for construction of third floor. The first respondent issued Memo, dated 27.02.2007, alleging that the petitioner is making construction of sunshade and bath room in contravention of building permission. The petitioner then submitted explanation. Allegedly first respondent raised objection for construction. The first respondent, however, returned the plan on 15.03.2007 quoting the communication of the second respondent, dated 17.03.2006. Aggrieved by the same, present writ petition is filed.

Learned counsel for petitioner strenuously contends that the rejection/return of the building plan by first respondent and order passed by second respondent are illegal and arbitrary. He submits that when the Gram Panchayat already granted permission vide their orders, dated 27.05.2006, no objection was raised by anybody and therefore, the Gram Panchayat could not have returned the building plan without proper reasons. The learned Assistant Government Pleader has taken this Court through the impugned order as well as the order of second respondent and submits that when the plot area is less than 355 square meters, construction with ground plus three floors cannot be permitted as per Andhra Pradesh Gram Panchayat Land Development (Layout and Building) Rules, 2002 (the Rules, for brevity).

Second respondent passed impugned order only on the ground that when the building plan for construction of third floor sent to second respondent as per the Rules, the latter did not approve the same, and therefore, permission cannot be granted. The second respondent while returning the plan unapproved gave the following reasons.

1. The proposed site under reference is falls in the industrial land use as per the sanctioned master plan of Kakinada town.
2. The proposed site under reference is covered in an unauthorised layout as per the furnished documents.
3. As per the submitting plans the proposal cum in to the category of residential complex and its requires 40'0" wide approach road. As per provision 18(3) of G.O.Ms.No.6/P.R. & R.D. Department, dated 26.02.2002. Whereas in the plans the existing road width is 20'0".
4. The minimum site area required is 335 sq.mts. As per provisions 17(2) of G.O.Ms.No.67, P.r.&R.D. dated 26.02.2002 whereas the proposed site area is 290.50 sq.mts.

As per Rule 18(3) of the Rules, the minimum width of the road where a residential complex can be permitted should be 40 feet, whereas the petitioner's premises was adjacent to a road with a width of 20 feet. Secondly, the minimum plot area required under Rule 17(2) of the Rules is 335 square meters, whereas admittedly the area of the plot owned by the petitioner is only 290 square meters. These are certainly valid reasons and even the second respondent has no such authority to overlook these and approve the plans submitted to Gram Panchayat in contravention of the Rules. If the petitioner is aggrieved, his remedy is to approach the Director of Town Planning for necessary redressal. This writ petition is misconceived.

The writ petition, subject to above observation, is dismissed. No costs.

_____

(V.V.S.RAO,J)

01.05.2007.
pln